

103 KAR 15:040. Statute of limitations; assessments and refunds.

RELATES TO: KRS 141.210, 141.235

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation summarizes and explains provisions of income tax law pertaining to time limitations on assessments of additional taxes and the granting of tax refunds.

Section 1. Assessments. Additional income tax may be assessed within four (4) years from the due date of return, the extended due date, or the filing date of a late return. Exceptions are provided in this section and in Section 2 of this administrative regulation. If returns are not filed, or if fraudulent returns are filed, additional tax may be assessed at any time.

(1) Individuals. Additional tax may be assessed within six (6) years after the return was due or filed if an individual understates net income by twenty-five (25) percent, or omits from net income at least twenty-five (25) percent of net income reported.

(2) Corporations. Additional tax may be assessed within six (6) years after the return was due or filed if the corporation understates its taxable net income by twenty-five (25) percent, or omits from taxable net income at least twenty-five (25) percent of taxable net income reported.

Section 2. Agreements. The period for assessment and refund may be extended by written agreement between the cabinet and the taxpayer before the statutory limitation expires, and may be further extended by additional agreements. Any agreement extending the time for assessment specifically extends the time for refund or credit notwithstanding the limitation in Section 3 of this administrative regulation.

Section 3. Refunds. (1) Limitation. The cabinet may authorize refunds or credits within three (3) years from the due date of the return or the date the tax was paid, whichever is later, on payments received before January 1, 1966. Payments received on or after January 1, 1966 may be refunded or credited within four (4) years from the due date of the return or the date the tax was paid, whichever is later. Interest is paid on refunds for taxable years ended July 1, 1982 and thereafter in accordance with KRS 131.183.

(2) Claim. A refund claim may be filed by letter or Revenue Form 40A713. A claim must contain:

(a) The taxpayer's name, address, and form of organization whether individual, corporation, or fiduciary;

(b) The calendar or fiscal year of the taxpayer;

(c) Amount paid and date of payment;

(d) The validation number if available;

(e) The amount of refund requested;

(f) A certification that taxpayer is not indebted to the Commonwealth for any taxes; and

(g) The basis for the claim.

(3) A separate claim must be filed for each year, and an amended return may be required to support any claim. If any claim is denied, a protest may be filed with the cabinet within forty-five (45) days from notice of disallowance.

Section 4. Statutory Date. A return filed before the due date is considered filed on the due date for purposes of this administrative regulation. (IG-4; 1 Ky.R. 327; eff. 2-5-75; Am. 3 Ky.R. 382; eff. 12-1-76; 20 Ky.R. 2872; 5-18-94.)